

CAROLAN & BRIAN STANSKY

\*

IN THE

vs.

\*

MARYLAND TAX COURT

COMPTROLLER OF MARYLAND

\*

NO. 17-IN-OO-0066

and 17-IN-OO-0973

\*

**ORDER**

The above entitled case having come on for hearing, testimony having been taken and the matter considered, it is this <sup>15<sup>th</sup></sup> day of <sup>July</sup>, 2022, by the Maryland Tax Court ORDERED, that the assessment appealed in the above-entitled case be and the same is hereby **AFFIRMED**, for the tax years 2006 and 2007.

cc: Brian & Carolan Stansky  
Brian L. Oliner, Esq.

**CERTIFIED TRUE COPY**  
**TEST:** John T. Hearn, Clerk

**NOTICE:** You have the right of appeal from the above Order to the Circuit Court of any County or Baltimore City, wherein the property or subject of the assessment may be situated. The Petition for Judicial Review **MUST** be filed in the proper Court within thirty (30) days from the date of the above Order of the Maryland Tax Court. Please refer to Rule 7-200 et seq. of the Maryland Rules of Court, which can be found in most public libraries.

CAROLYN STANSKY  
AND BRIAN STANSKY

vs.

COMPTROLLER OF THE  
STATE OF MARYLAND

IN THE MARYLAND TAX  
COURT

M.T.C. NO. 17-IN-OO-0066 &  
17-IN-OO-0973

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MEMORANDUM AND ORDER

This is an appeal from the decision of the Comptroller of the State of Maryland (“Respondent”), wherein the Respondent denied Carolyn Stansky and Brian Stansky’s (“Petitioners”) claims for refund arising from Petitioners’ 2006 and 2007 Maryland Residential Income Tax Returns. The Respondent denied the refunds because the three-year statute of limitations expired. The Maryland Tax Court, by *de novo* review, AFFIRMS the decisions of the Respondent.

Petitioners filed their 2007 amended return on December 14, 2011, and their 2006 amended Maryland return on May 11, 2016. The amended returns were the result of the pending litigation and subsequent ruling by United States Supreme Court in *Comptroller of Treasury of Maryland v. Wynne*, 135 S. Ct. 1787 (2015), hereinafter “*Wynne*”. The Petitioners claim that the decision entitled them to receive a tax refund based on their original tax returns.

The Petitioners interpret the Maryland Annotated Code, Tax-General Article, Section 13-1104(j)’s use of the word “person” to mean *any* Maryland taxpayer, and not just the parties specifically involved in *Wynne*.

The Respondent claims that Maryland taxpayers must file amended state tax returns within a three-year statute of limitations, and that the three-year period commences from the filing date of the original tax return. The Respondent further contends that, as far as an exception to the three-year filing period applies, the term “persons,” as found in Section 13-1104(j), pertains only to the named parties. Respondent relies on the decision of the Court of Special Appeals in *Maisel v. Comptroller of the Treasury*, 250 Md.App. 360 (2021), hereinafter “*Maisel*”.

Petitioners claim that Section 13-1104(j) is ambiguous as to what a “person(s)” means for purposes of timely filing an amended state tax return. Petitioners argue that it is equitable to interpret broadly any ambiguity of the statutory language pertaining to the word, “person,” thereby providing relief to themselves and for any other taxpayers so impacted by *Wynne*.

As a matter of law, Internal Revenue Code and the Maryland Annotated Code impose a three-year statute of limitations for filing an amended tax return. Specifically, Maryland Annotated Code, Tax-General Article Section 13-1104(a) states, in part, “...a claim for refund under this article may not be filed after 3 years from the date of the tax, interest, or penalty was paid.” The three-year statute of limitations tolls from the date of the filing of the original return. Case law well recognizes and supports the strict application of this three-year statute of limitations in tax matters.

Maryland, however, does recognize narrow exceptions to the strictly interpreted, statute of limitations for tax matters. Specifically, Tax-General Article Section 13-1104(j) it states, “A claim for refund or credit for overpayment of income tax attributable to a right to a reduction in a person’s Maryland income tax...may be filed within 1 year after the date of a final decision of

the...highest court to which an appeal of a final decision...is taken.” Whether to grant such relief is matter of statutory interpretation.

The Petitioners utilize inductive reasoning, arguing that Respondent should honor their request for a tax refund, and that by extension, all other similarly situated Maryland taxpayers should receive similar treatment. The Petitioners policy argument is for the General Assembly to consider and is beyond the scope of the Maryland Tax Court. This Court is bound by the ruling made in the *Maisel* case.

The Court recognizes that a fair and just state tax system does not create an affirmative obligation by the State to make individual exceptions for taxpayers who seek redress for tax matters extending beyond the statute of limitations. There is no constitutional right to a tax refund. Rather, the right to a tax refund is a statutorily prescribed and a matter of legislative grace, enacted by the State of Maryland. The Respondent correctly applied the Maryland tax laws to strictly uphold the three-year statute of limitations.

After reviewing all the facts and evidence in the case, the Petitioners are not entitled to a tax refund for the tax years involved. The Petitioner’s filed their refund claims after the applicable statute of limitations had run. No other reasonably construed statutory exceptions are applicable to warrant relief.

Accordingly, the Court shall pass an Order affirming the Respondent’s denial of the Petitioners’ refund claims.